UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

J. KENNETH KEARNEY USA LTD.,)	
Plaintiff,)	CIVIL ACTION
V.)	NO. 04 CV 12643 RCL
DAVID SMITH)	
Defendant.))	

ASSENTED-TO MOTION TO EXTEND PLAINTIFF'S TIME TO RESPOND TO <u>DEFENDANT'S MOTION TO STAY LITIGATION</u>

Plaintiff J. Kenneth Kearney USA LTD ("Plaintiff") files this Assented-to Motion to Extend Time to Respond to Defendant David Smith's ("Defendant") Motion to Stay Litigation. Defendant, by and through his attorneys, has agreed to extend the Plaintiff's time to respond to the Motion to Stay from February 2, 2005 to and including February 7, 2005. As grounds for this Motion, Plaintiff states that it needs the short, additional time to adequately respond to the issues raised in Defendant's motion.

WHEREFORE, Plaintiff respectfully request that this Court grant this Motion extending the Plaintiff's time to respond to Defendant's Motion to Stay until February 7, 2005.

Respectfully submitted,

J. KENNETH KEARNEY USA LTD. By its attorneys,

/s/ Kristin M. Cataldo

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ASSENTED-TO: DAVID SMITH

By his attorneys,

/s/ Windy L. Rosebush (w/ permission)

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February 2, 2005

Certificate of Service

I hereby certify that on <u>February 2, 2005</u> I served a true and accurate copy of Assented-To Motion To Extend Plaintiff's Time To Respond To Defendant's Motion To Stay Litigation on all counsel of record electronically.

Dated: February 2, 2005 /s/ Kristin M. Cataldo

Kristin M. Cataldo